

Amendment No. 1 to SB0648

Johnson  
Signature of Sponsor

**AMEND Senate Bill No. 648**

**House Bill No. 606\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 12, is amended by adding the following language as a new part:

**55-12-201.** This part shall be known and may be cited as the “James Lee Atwood Jr. Law.”

**55-12-202.** The purpose of this part is to develop and implement an efficient insurance verification program that utilizes the online verification system and data transfer standards for transmitting a full book of business specifications, model, and guide of the Insurance Industry Committee on Motor Vehicle Administration in order to verify whether the financial responsibility requirements of this chapter have been met with a motor vehicle liability insurance policy, and to provide the commissioner of revenue with the authority to develop, implement, and administer the program.

**55-12-203.** As used in this part, unless the context otherwise requires:

(1) “Automobile liability insurer,” “insurer,” or “carrier” means an insurance carrier licensed under title 56 to provide vehicle insurance, as defined in § 56-2-201, in this state;

(2) “Commercial automobile coverage” means any coverage provided to an insured, regardless of the number of vehicles or entities covered, under a commercial coverage form and rated from a commercial manual approved by the department of commerce and insurance;

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(3) “Designated agent” means a third-party vendor that the department of revenue may contract with to develop, implement, and administer the program;

(4) “Full book of business” means a business record download of an automobile liability insurer made in accordance with IICMVA Insurance Data Transfer Guide Specifications that contains the data elements described in § 55-12-207(c)(1);

(5) “IICMVA” means the Insurance Industry Committee on Motor Vehicle Administration;

(6) “IICMVA Model” means the online insurance verification system model created by the IICMVA;

(7) “NAIC” means the National Association of Insurance Commissioners;

(8) “Unknown carrier request” means an electronic request for insurance coverage verification on a specific vehicle sent in accordance with IICMVA standards by the department of revenue or its designated agent to a carrier or carriers when the identity of the vehicle’s carrier or the insurance policy number for the vehicle is unknown; and

(9) “Vehicle insurance verification program” or “program” means an insurance verification program that is created in compliance with the online verification system and data transfer standards, specifications, model, and guide of the IICMVA, and developed, implemented, and administered by the department of revenue in compliance with this part.

**55-12-204.**

(a) The commissioner of revenue shall develop, implement, and administer an insurance verification program to electronically verify whether the financial responsibility requirements of this chapter have been met with a motor vehicle liability insurance policy; provided, the commissioner may contract with a designated agent to develop, implement, and administer the program.

(b) Prior to issuance of a request for proposal for the services of a designated agent or prior to developing and implementing the program, the department of revenue or, if applicable, its designated agent shall consult with the following entities to determine the details and deadlines related to the program:

(1) Automobile liability insurers;

(2) Private service providers who have successfully developed and implemented similar verification systems in other states;

(3) The department of safety; and

(4) The department of commerce and insurance.

**55-12-205.** The program shall:

(1) Be an accessible common carrier based system for online electronic verification and data transfers of proof of motor vehicle liability insurance in accordance with IICMVA specifications and standards;

(2) Verify, on an on-demand basis minus reasonable downtime for system maintenance as agreed upon by the department of revenue, or its designated agent, and the insurer, the liability insurance status of a motor vehicle, whose status is determined:

(A) As of the time of the inquiry; or

(B) At other times not exceeding six (6) months prior to the inquiry unless otherwise agreed upon by the commissioner of revenue, or its designated agent, and the insurer;

(3)

(A) In an effort to confirm the liability insurance status of a motor vehicle in instances where the program is unable to verify the liability insurance status, require automobile liability insurers that choose only to utilize the IICMVA model to:

(i) Accept unknown carrier requests; or

(ii) Provide upon request either:

(a) A full book of business as described in § 55-12-207, current to the date of the request; or

(b) A list of vehicle identification numbers of all vehicles currently insured by the automobile liability insurer.

(B) The information in subdivision (3)(A)(ii) shall be requested no more frequently than quarterly and the automobile liability insurer may freely choose between the options described in subdivisions (3)(A)(ii)(a) and (b).

(4) Use, as warranted, multiple data elements to make insurance verification inquiries more accurately by utilizing:

(A) The automobile liability insurer's NAIC code;

(B) Vehicle identification numbers;

(C) Insurance policy numbers or policy key;

(D) The date of the verification request; and

(E) Other data elements as set forth in the most recent version of the IICMVA Model User Guide for Implementing Online Insurance Verification;

(5) Provide sufficient measures for the security and integrity of data collected by the program;

(6) Limit the usage of the information obtained through the operation of the program to the department of revenue, the department of safety, the department of

commerce and insurance, law enforcement, and the judiciary to effectuate the purposes of this chapter;

(7) Utilize open data and data transmission standards as determined by the department of revenue by rule;

(8) Send requests to automobile liability insurers for verification of evidence of financial responsibility via online services established by the automobile liability insurers, or offered through a similar proprietary or common carrier electronic system in compliance with the specifications and standards of the IICMVA;

(9) Respond to a verification request within a time period established by the department of revenue, or its designated agent, and consistent with the most recent version of the IICMVA Model User Guide for Implementing Online Insurance Verification; and

(10) Work in conjunction with existing state programs and systems related to this title if necessary to carry out this part.

**55-12-206.** In developing and implementing the program, the department of revenue and, if applicable, its designated agent shall:

(1) Consult and cooperate with automobile liability insurers in establishing and operating the program;

(2) Designate and maintain a contact person for automobile liability insurers during the development, implementation, and administration of the program;

(3) Publish a detailed guide of the program;

(4) Establish and maintain the systems necessary to make verification requests to insurers using the data elements that the department of revenue, or its designated agent, and automobile liability insurers have agreed upon and are necessary to receive accurate responses from automobile liability insurers;

(5) Implement and maintain, for all information transmitted and received, strict system and data security measures consistent with applicable industry standards as determined by the department of revenue by rule; provided, data secured by the department of revenue, or its designated agent, via the program shall not be shared with any party other than those permitted by state or federal privacy laws, including, but not limited to, the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. §§ 2721 et seq.);

(6) If applicable, be responsible for keeping the designated agent informed on the implementation status, functionality, and planned or unplanned service interruptions; and

(7) Provide alternative methods of reporting for automobile liability insurers writing fewer than five hundred (500) noncommercial motor vehicle policies in this state as determined by the department of revenue.

**55-12-207.**

(a) If an automobile liability insurer chooses not to utilize the IICMVA model, the automobile liability insurer shall provide to the department of revenue, or its designated agent, a full book of business by the seventh day of each calendar month.

(b)

(1) Subsection (a) does not apply if the policy covers a motor vehicle that is registered as a vehicle of a political subdivision or of this state, or as a vehicle registered pursuant to § 55-4-122 or § 55-4-502.

(2) Subsection (a) does not preclude an automobile liability insurer from more frequent reporting.

(c)

(1) The full book of business provided pursuant to subsection (a) shall include:

(A) The vehicle identification number of each insured motor vehicle; and

(B) The automobile liability insurer's NAIC code, policy number, and effective date of each policy.

(2) Each automobile liability insurer that chooses not to utilize the IICMVA model pursuant to subsection (a) shall transmit the information described in this subsection (c) by either electronic means or by another means of transmission acceptable to the department of revenue or its designated agent.

**55-12-208.** Nothing in this part precludes an automobile liability insurer from utilizing both the IICMVA model and the full book of business download process described in § 55-12-207.

**55-12-209.**

(a) Any information obtained by the department of revenue, or its designated agent, from the program is for the sole use of the department of revenue, the department of safety, the department of commerce and insurance, law enforcement, and the judiciary to effectuate this chapter and is not a public record for purposes of title 10, chapter 7, nor discoverable in the course of legal proceedings.

(b) The department of safety shall cooperate with the department of revenue in developing, implementing, and maintaining the program.

(c) A law enforcement officer from a jurisdiction that has reasonable access to the program shall utilize the program to verify proof of financial responsibility as required by § 55-12-139.

(d) Nothing in this part precludes a law enforcement officer from a jurisdiction that does not have reasonable access to the program from utilizing the program to verify proof of financial responsibility as required by § 55-12-139.

(e) Nothing in this part prohibits an automobile liability insurer from using the services of a third-party vendor to comply with this part.

(f) This part shall not apply to motor vehicles insured under commercial automobile coverage; however, insurers of those vehicles may participate on a voluntary basis. Automobile liability insurers shall provide commercial automobile customers with evidence reflecting that the vehicle is insured under a commercial automobile policy. Sufficient evidence may include an insurance identification card that clearly identifies the policy as providing commercial automobile coverage.

(g) No later than January 1, 2019, and annually thereafter, the department of revenue and the department of safety shall issue a joint report to the general assembly, evidencing:

(1) The costs of the program to the department of revenue, insurers, and the public;

(2) The effectiveness of the program in reducing the number of uninsured motor vehicles;

(3) The number of persons complying with the financial responsibility requirements of this chapter through means other than motor vehicle liability insurance;

(4) The number of persons convicted per year for failing to show evidence of financial responsibility pursuant to § 55-12-139, and

(5) If available, the number of motor vehicle accidents involving an uninsured motorist on an annual basis since January 1, 2016.

**55-12-210.**

(a)

(1) If there is evidence based on either the IICMVA model or the full book of business download process described in § 55-12-207 that a motor vehicle is

not insured, the department of revenue shall, or shall direct its designated agent to, provide notice to the owner of the motor vehicle that the owner has fifteen (15) days from the date of the notice to provide to the department of revenue:

(A) The owner or operator's proof of financial security in a form approved by the department of revenue;

(B) Proof of exemption from the owner or operator's financial security requirements under this chapter;

(C) Proof that the motor vehicle is no longer in the owner's possession; or

(D) A statement, under penalty of perjury, that the vehicle is not in use on any public road.

(2) The notice described in subdivision (a)(1) shall include a statement that if the owner of the motor vehicle fails to comply with the requirements set forth in the notice, the owner of the motor vehicle shall be subject to a twenty-five-dollar coverage failure fee. The department of revenue or its designated agent shall transmit the notice to the owner of the motor vehicle by mailing the notice to the most recent street address or electronic mail address provided to the department of revenue by the owner.

(b)

(1) If an owner of a motor vehicle fails to provide satisfactory proof or a statement as described in subsection (a), the department of revenue shall:

(A) Impose on the owner of the motor vehicle a twenty-five-dollar coverage failure fee. Of this fee, five dollars (\$5.00) shall be distributed to the county clerk of the county in which the motor vehicle is registered, five dollars (\$5.00) shall be distributed to the department of safety, and the

remainder shall be deposited into the uninsured motorist identification restricted fund created in § 55-12-213; and

(B) Provide a notice to the owner of the motor vehicle stating that the owner must pay the coverage failure fee described in subdivision (b)(1)(A) and provide satisfactory proof or a statement as described in subsection (a) within thirty (30) days of the date of the notice.

(2) The notice described in subdivision (b)(1)(B) shall include a statement that if the owner of the motor vehicle fails to comply with the requirements set forth in the notice, the owner of the motor vehicle shall be subject to a one hundred-dollar continued coverage failure fee and suspension or revocation of the owner's motor vehicle registration.

(c) If the owner of the motor vehicle fails to comply with the notice described in subdivision (b)(1)(B), the department of revenue:

(1) Shall impose on the owner of the motor vehicle a one hundred-dollar continued coverage failure fee, which shall be in addition to the coverage failure fee imposed under subdivision (b)(1)(A). Of this continued coverage failure fee, ten dollars (\$10.00) shall be distributed to the county clerk of the county in which the motor vehicle is registered, five dollars (\$5.00) shall be distributed to the department of safety, and the remainder shall be deposited into the uninsured motorist identification restricted fund created in § 55-12-213;

(2) Shall suspend or revoke the motor vehicle owner's registration; and

(3)

(A) Shall provide notice to the motor vehicle owner of the legal consequences of operating a motor vehicle with a suspended or revoked registration and without owner or operator's proof of financial security as

required by this chapter, and instructions on how to effect the reinstatement of the motor vehicle owner's registration; or

(B) May direct a designated agent to provide the notice and instructions described in this subdivision (c)(3).

(d) Any action by the department of revenue to suspend or revoke the registration of a motor vehicle under this section may be in addition to an action by a law enforcement agency to impose penalties under this chapter.

(e)

(1) A person shall not provide a false or fraudulent statement to the department of revenue or its designated agent.

(2) In addition to any other penalties, a violation of subdivision (e)(1) is a Class B misdemeanor.

(f) This part does not affect other actions or penalties that may be taken or imposed for violation of the owner or operator's financial security requirements of this chapter.

(g) If the vehicle is no longer insured by the automobile liability insurer of record and no other insurance company using the IICMVA model indicates coverage after an unknown carrier request under § 55-12-205(3), the owner of the motor vehicle becomes eligible for notice as described in subsections (a) and (b).

#### **55-12-211.**

(a) The department of revenue shall not process an application for reinstatement or renewal of registration of a motor vehicle after a suspension or revocation of the registration under § 55-12-210 until the applicant pays all fees owed pursuant to § 55-12-210.

(b) The commissioner of revenue may waive the fees imposed under § 55-12-210 if:

(1) The registration was suspended or revoked under § 55-12-210; and

(2) The applicant provides proof acceptable to the department of revenue that the applicant had an owner or operator's financial security in effect for the vehicle on the date the suspension or revocation went into effect.

**55-12-212.** The program shall be installed and fully operational upon certification by the commissioner of revenue that the program has been successfully tested and is ready for implementation, but not later than January 1, 2017. Until such certification occurs, no law enforcement action shall be taken based on the program.

**55-12-213.**

(a) There is established within the general fund an account to be known as the "uninsured motorist identification restricted fund."

(b) The fund shall consist of money generated from this part, less any amount distributed to the county clerks and the department of safety, and funds appropriated by the general assembly. The commissioner of revenue shall use only the money in the fund in administering this part.

(c) Any unencumbered moneys and any unexpended balance of the fund remaining at the end of any fiscal year shall not revert to the general fund, but shall be carried forward and maintained in separate accounts until expended in accordance with this part.

(d) Moneys in the fund shall be invested by the state treasurer for the benefit of the fund pursuant to § 9-4-603. Interest accruing on investments and deposits of the fund shall be returned to the fund and remain a part of the fund. The fund shall be administered by the commissioner of revenue.

**55-12-214.** Nothing in this part shall alter the existing financial responsibility requirements in this chapter.

**55-12-215.** Nothing in this part shall allow the department of revenue or its designated agent to levy any fee or surcharge on automobile liability insurers.

SECTION 2. Tennessee Code Annotated, Section 55-12-139(b), is amended by deleting the subsection and substituting instead the following:

(b)

(1)

(A) At the time the driver of a motor vehicle is charged with any violation under chapters 8 and 10, parts 1–5, and chapter 50 of this title; any other local ordinance regulating traffic; or at the time of an accident for which notice is required under § 55-10-106, the officer shall request evidence of financial responsibility as required by this section.

(B) In case of an accident for which notice is required under § 55-10-106, the officer shall request evidence of financial responsibility from all drivers involved in the accident without regard to apparent or actual fault.

(C) If the driver of a motor vehicle fails to show an officer evidence of financial responsibility, or provides the officer with evidence of a motor vehicle liability policy as evidence of financial responsibility, the officer shall utilize the vehicle insurance verification program as defined in § 55-12-203 and may rely on the information provided by the vehicle insurance verification program, for the purpose of verifying evidence of liability insurance coverage.

(2) For the purposes of this section, “financial responsibility” means:

(A) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in this state, whether in paper or

electronic format, stating that a policy of insurance meeting the requirements of this chapter has been issued;

(B) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that:

(i) A cash deposit or bond in the amount required by this chapter has been paid or filed with the commissioner of revenue;

or

(ii) The driver has qualified as a self-insurer under § 55-12-111; or

(C) The motor vehicle being operated at the time of the violation was owned by a common carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, this state, or any political subdivision thereof, and that the motor vehicle was being operated with the owner's consent.

SECTION 3. Tennessee Code Annotated, Section 55-12-139(c)(2), is amended by deleting the language "one hundred dollars (\$100)" and substituting the language "three hundred dollars (\$300)".

SECTION 4. Tennessee Code Annotated, Section 55-12-139(c)(3), is amended by adding the following language as a new subdivision:

A violation of subdivision (c)(1) is a Class A misdemeanor, if a person acts to demonstrate financial responsibility as required by this section by providing proof of motor vehicle liability insurance that the person knows is not valid.

SECTION 5. Tennessee Code Annotated, Section 55-12-139(c), is amended by adding the following language as a new subdivision (4):

(4) If the driver of a motor vehicle fails to provide evidence of financial responsibility pursuant to this section, an officer may tow the motor vehicle as long as

the officer's law enforcement agency has adopted a policy delineating the procedure for taking such action.

SECTION 6. Tennessee Code Annotated, Section 10-7-504, is amended by adding the following language as a new subsection:

(r) The records of the insurance verification program created pursuant to the James Lee Atwood Jr. Law, compiled in title 55, chapter 12, part 2, in the possession of the department of revenue or its agent, the department of safety, the department of commerce and insurance, law enforcement, and the judiciary pursuant to the James Lee Atwood Jr. Law, shall be treated as confidential and shall not be open for inspection by members of the public. Subsection (c) shall not apply to the records described in this subsection (r).

SECTION 7. Tennessee Code Annotated, Title 56, Chapter 7, Part 11, is amended by adding the following language as a new section:

**56-7-1118.**

(a) Automobile liability insurers, as defined in § 55-12-203, shall comply with any requirements set forth in the James Lee Atwood Jr. Law, compiled in title 55, chapter 12, part 2, and any rules promulgated thereto.

(b) Automobile liability insurers, as defined in § 55-12-203, shall also comply with the following requirements:

(1) Cooperate with the department of revenue or its designated agent, the department of safety, and the department of commerce and insurance in establishing, operating, and maintaining the vehicle insurance verification program, as defined in § 55-12-203;

(2) Maintain the data necessary to verify the existence of financial responsibility, including liability insurance coverage provided to its customers

pursuant to the required time period established by the department of revenue, for the vehicle insurance verification program;

(3) Maintain Internet service, pursuant to the requirements established under the James Lee Atwood Jr. Law, through which online insurance verification can take place, including responding to authorized inquiries from the department of revenue or its designated agent of the vehicle insurance verification program; and

(4) Provide security consistent with accepted insurance industry and United States motor vehicle agency standards related to the transmission of personal data.

(c) Automobile liability insurers that make a good faith effort to comply with the requirements described in subsections (a) and (b), shall have immunity from civil and administrative liability as to any action related to the good faith effort.

SECTION 8. Tennessee Code Annotated, Section 56-2-305, is amended by adding the following language as a new subsection:

(f)

(1) If, at any time following the certification of the vehicle insurance verification program under § 55-12-212, the commissioner of commerce and insurance finds that an automobile liability insurer, as defined in § 55-12-203, has intentionally violated § 56-7-1118, then the commissioner may, after providing the opportunity for a contested case hearing held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, assess a civil penalty against the automobile liability insurer of up to two hundred fifty dollars (\$250) for each day the insurer fails to comply with § 56-7-1118. The commissioner may excuse or reduce the civil penalty under this subdivision (f)(1) for good cause.

(2) Until the certification of the program occurs, the commissioner shall not assess any civil penalty or convene a contested case hearing for an alleged violation of § 56-7-1118 by an automobile liability insurer.

SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 10. The commissioner of revenue, the commissioner of safety, and the commissioner of commerce and insurance are authorized to promulgate rules to effectuate the purposes of this act. All rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, title 4, chapter 5.

SECTION 11. For the purposes of contracting with a designated agent pursuant to § 55-12-204(a), if applicable, consulting with entities pursuant to § 55-12-204(b), developing and implementing the program pursuant to § 55-12-206, and promulgating rules pursuant to Section 10, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2016.